

ESTTA Tracking number: **ESTTA703117**

Filing date: **10/19/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	JOAN HERLONG
Granted to Date of previous extension	10/17/2015
Address	1421 AUGUSTA STREET GREENVILLE, SC 29605 UNITED STATES
Correspondence information	Timothy D. St. Clair Attorney of Record Nexsen Pruet, LLC 55 East Camperdown Way Suite 400 GREENVILLE, SC 29601 UNITED STATES tstclair@nexsenpruet.com, pweaver@nexsenpruet.com Phone:864/282-1181

Applicant Information

Application No	86577749	Publication date	08/18/2015
Opposition Filing Date	10/19/2015	Opposition Period Ends	10/17/2015
Applicant	Sharon Wilson 111 Williams Street Greenville, SC 29601 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. First Use: 2005/01/31 First Use In Commerce: 2005/01/31
All goods and services in the class are opposed, namely: Real estate agencies

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
The mark is deceptively misdescriptive	Trademark Act section 2(e)(1)

Mark Cited by Opposer as Basis for Opposition

Attachments	5553801 Opposition Petition V3.pdf(89921 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Timothy D. St. Clair/
Name	Timothy D. St. Clair
Date	10/19/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark
Serial No. 86/577749
Filing Date: March 26, 2015
Mark: NUMBER ONE IN THE NEIGHBORHOOD
Publication Date: August 18, 2015

Joan Herlong, Opposer, v. Sharon Wilson, Applicant.	Opposition No. _____
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NOTICE OF OPPOSITION

Joan Herlong (“Opposer”), an individual with a principal place of business at 1421 Augusta Street, Greenville, South Carolina 29605, United States, believes that she will be damaged by the registration of NUMBER ONE IN THE NEIGHBORHOOD shown in Application Serial No. 86/577749 (“the Application”) filed on March 26, 2015 by Sharon Wilson (“Applicant”) in International Class 36 for use in connection with “real estate agencies,” and hereby opposes the same. Opposer requests that the registration of NUMBER ONE IN THE NEIGHBORHOOD be refused.

Opposer requested and received an extension of time until October 17, 2015, to oppose this application. The grounds for this opposition are as follows:

1. For many years, Opposer has conducted business as a real estate agent, and has during that time devoted and expended tremendous energy, time, talent, and

monies toward promoting, advertising, advancing, and operating her business as a real estate agent.

2. As a result, notwithstanding a very competitive environment, Opposer has earned and achieved remarkable success as a real estate agent, and has come to be, and is, viewed in the South Carolina “Upstate” real estate market, and particularly in the Greenville, South Carolina metropolitan area real estate market, as a premier real estate agent. Opposer is widely respected in her field as a leader and as a provider of the highest quality real estate agency services. Her representation as a real estate agent is widely sought by prospective real estate sellers and purchasers, based on her record of successes, the quality of her work, and her skills and talents. Opposer enjoys extensive goodwill and consumer recognition in the South Carolina “Upstate” real estate market, and particularly in the Greenville, South Carolina metropolitan area real estate market.

3. On or about March 26, 2015, Applicant filed the referenced application seeking registration of NUMBER ONE IN THE NEIGHBORHOOD for “real estate agencies.” The Application was filed in the name of Sharon Wilson with an address of 111 Williams Street, Greenville, South Carolina 29601. The Application was assigned serial number 86/577749.

4. Applicant’s Application was published for opposition on August 18, 2015. Opposer sought and received a thirty-day extension of time to oppose Applicant’s registration.

5. Applicant is not the “Number One in the Neighborhood” for real estate agency:

- a. Applicant does not have the highest number of sales, in any relevant market, over any relevant time period.
- b. Applicant does not have the greatest number of listings, in any relevant market, over any relevant time period.
- c. Applicant's listings do not sell faster than those of other real estate agents, over any aggregation of listings, in any relevant market, over any relevant time period.
- d. Applicant's listings do not sell at a higher price than those of other real estate agents, over any aggregation of listings, in any relevant market, over any relevant time period.
- e. Applicant's services are not of superior quality, in any relevant market, over any relevant time period, to those of other real estate agents.
- f. Applicant's services are not of enhanced performance or function, in any relevant market, over any relevant time period, to those of other real estate agents.
- g. There is no other known, pertinent metric, in any relevant market, over any relevant time period, by which Applicant is the best, most desirable, finest, first, greatest, highest, maximum, paramount, preeminent, superlative, top, ultimate, unsurpassed, utmost, or otherwise "number one" real estate agent.

6. Applicant's use of "Number One in the Neighborhood" for real estate agency is misdescriptive of her real estate agency.

7. Applicant's use of "Number One in the Neighborhood" for real estate agency, falsely describe the nature of those services.

8. Prospective real estate sellers and purchasers are likely to believe that Applicant's misdescription applies to Applicant's services.

9. Applicant's misdescription is likely to materially affect a significant portion of prospective real estate sellers' and purchasers' decision to procure Applicant's services and would likely be a material factor in the purchasing decision of a significant portion of the relevant consumers of such services.

10. Applicant's use of "Number One in the Neighborhood" conveys an immediate idea of a quality, characteristic, and/or feature of her services that, though plausible, is false.

11. Applicant's use of "Number One in the Neighborhood" is deceptively misdescriptive.

12. By reason of all of the foregoing, Opposer will be damaged by the registration of Applicant's NUMBER ONE IN THE NEIGHBORHOOD phrase.

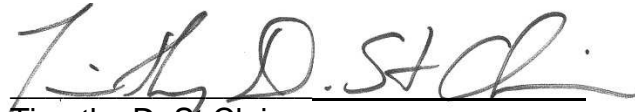
13. Pursuant at least to *15 U.S.C. § 1052(a)* and such other laws, rules, and authorities made and provided, registration of Applicant's NUMBER ONE IN THE NEIGHBORHOOD phrase, Application Serial No. 86/577749, for "real estate agencies" should be rejected.

WHEREFORE, Opposer prays that the application for registration of NUMBER ONE IN THE NEIGHBORHOOD, Application Serial No. 86/577749, for "real estate agencies" be rejected, that this opposition be sustained, and that Opposer be granted such other different and additional relief as this Board deems just and proper.

Respectfully submitted,

NEXSEN PRUET, LLC

October 19, 2015

A handwritten signature in black ink, appearing to read "T. D. St. Clair", written over a horizontal line.

Timothy D. St. Clair

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Greenville, South Carolina 29601

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ATTORNEYS FOR OPPOSER

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark
Serial No. 86/577749
Filing Date: March 26, 2015
Mark: NUMBER ONE IN THE NEIGHBORHOOD
Publication Date: August 18, 2015

Joan Herlong,

Opposer,

v.

Sharon Wilson,

Applicant.

CERTIFICATE OF SERVICE

I, Timothy D. St.Clair, attorney of Nexsen Pruet, LLC, attorneys for Opposer, hereby certify that a true, correct, and complete copy of the foregoing

NOTICE OF OPPOSITION

was served on Applicant's attorney of record at the following address:

Thomas L. Moses
Southeast IP Group LLC
13B W. Washington Street
Greenville, South Carolina 29601-2734

postage prepaid by first-class mail on October 19, 2015.

Executed on October 19, 2015 at Greenville, South Carolina.


Timothy D. St.Clair